IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

MFA.No. 355 of 2001()

OPMV.345/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, OTTAPALAM
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APPELLANT:

UNITED INDIA INSURANCE CO. LTD., XVI/405 AUTOMOBILES BUILDINGS, POST BOX NO.11, UP HILL, MALAPPURAM, REPRESENTED BY ITS ASST. MANAGER, THIRD PARTY CLAIMS CELL, IV, VETTUKATTIL BUILDINGS, JOSE JUNCTION, KOCHI-16.

BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL

RESPONDENTS:
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1. IBRAHIM, S/O. MOIDEEN, REISIDING AT MATTATHODI VEEDU, PALOLIKULAMBE, VILAYUR (PO), OTTAPALAM TALUK.

2. RAMACHANDRAN, S/O. KUNHIKRISHNAN NAIR, RESIDING AT PALGHAT HOUSE, KOLATHUR, ANGADIPPURAM, MALAPPURAM.

3. C.T. AYSHA, W/O. LATE ABDUL SALAM HAJI, RESIDING AT ANAPADIKKAL HOUSE, KALPAKAMCHERRY P.O., MALAPPURAM.

4. THE NEW INDIA ASSURANCE CO. LTD., BRANCH OFFICE, THAZHAPALAM, TIRUR.

5. ABDUL ALIAS ADUPPA, S/O. MOHAMMED, KOLAPPARAMBIL, KOOTTAPILARIL HOUSE, KANNIAMPALLAM, MALAPPURAM (PO), KOLATHUR.

6. K. RAMLA, W/O. HAMZA, VAZHATHODI HOUSE, ANGADIPPURAM, PERINTHALMANNA (PO), MALAPPURAM.

R4 BY ADV. SRI.P.V.JYOTHI PRASAD

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 06/12/2007, ALONG WITH MFA NO. 356 OF 2001 MFA NO. 358 OF 2001 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S. Radhakrishnan &
T.R. Ramachandran Nair, JJ.

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M.F.A.NOS.355, 356 & 358 OF 2001

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Dated this the 6th day of December, 2007

JUDGMENT

Radhakrishnan, J.

The point raised is squarely covered by the judgment of this court in **Oriental Insurance Company Ltd. v. Sivankutty** (2005 (4) KLT 108), against the insurance company. Learned counsel appearing for the insurance company, however, referred to paragraph 29 of the award of the Tribunal and stated that the remedy open to the insurance company is to proceed against the R.C. owner after indemnifying the liability arising under the contract of insurance. It is submitted that no appeal has been filed by the owner against that direction. Therefore, the finding rendered by the Tribunal to that effect will stand.

With the above observation, the appeals are disposed of.

(K.S. Radhakrishnan, Judge.)

(T.R. Ramachandran Nair, Judge.)

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K.S. Radhakrishnan &

T.R. Ramachandran Nair, JJ.

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M.F.A. Nos.355, 356 & 358 of 2001

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JUDGMENT

6th December, 2007.